

**SCHEDULING OF CONTROLLED SUBSTANCES**

2010 GENERAL SESSION

STATE OF UTAH

---

**LONG TITLE****General Description:**

This bill modifies provisions regarding controlled substances by creating a committee to advise the Legislature on the scheduling of substances.

**Highlighted Provisions:**

This bill:

- ▶ creates the Controlled Substances Advisory Committee;
- ▶ establishes the membership of the committee;
- ▶ creates the role of the committee as an advisory body regarding placing substances in the statutory schedule of controlled substances, changing the schedule of a substance, or removing a substance from the schedules; and
- ▶ provides guidelines for determining if a substance should be scheduled and in which schedule to place a substance.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**58-38a-101**, Utah Code Annotated 1953

**58-38a-102**, Utah Code Annotated 1953

**58-38a-201**, Utah Code Annotated 1953

**58-38a-202**, Utah Code Annotated 1953

**58-38a-203**, Utah Code Annotated 1953

**58-38a-204**, Utah Code Annotated 1953

---

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **58-38a-101** is enacted to read:

**CHAPTER 38a. CONTROLLED SUBSTANCES ADVISORY COMMITTEE ACT****Part 1. General Provisions****58-38a-101. Title.**

This chapter is referred to as the "Controlled Substances Advisory Committee Act."

Section 2. Section **58-38a-102** is enacted to read:

**58-38a-102. Definitions.**

(1) "Committee" means the Controlled Substances Advisory Committee created in this chapter.

(2) "Controlled substance schedule" or "schedule" means a schedule as defined under Section 58-37-4.

Section 3. Section **58-38a-201** is enacted to read:

**Part 2. Controlled Substances Advisory Committee****58-38a-201. Controlled Substances Advisory Committee.**

There is created within the Division of Occupational and Professional Licensing the Controlled Substances Advisory Committee. The committee consists of:

(1) The Director of the Department of Health or the director's designee;

(2) the State Medical Examiner or the examiner's designee;

(3) the Commissioner of the Department of Public Safety or the commissioner's designee;

(4) one physician who is a member of the Physicians Licensing Board and is designated by that board;

(5) one pharmacist who is a member of the Utah State Board of Pharmacy and is designated by that board;

(6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board and is designated by that board;

(7) one physician who is currently licensed and practicing in the state, to be appointed by the governor;

(8) one psychiatrist who is currently licensed and practicing in the state, to be appointed by the governor;

(9) one individual with expertise in substance abuse addiction, to be appointed by governor;

(10) one representative from the Statewide Association of Prosecutors; and

(11) one citizen of the state, to be appointed by the governor.

Section 4. Section **58-38a-202** is enacted to read:

**58-38a-202. Terms of Committee Service.**

(1) (a) Members of the advisory committee shall serve terms of four years, except that the members under Subsections 58-38a-201(1), (2), and (3) shall serve during their terms as appointed officials.

(b) Vacancies in the committee occurring otherwise than by the expiration of a term shall be filled for the unexpired term in the same manner as original appointments.

(2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(3) (a) The director of the Department of Health, or the director's designee, is the chair of the committee.

(b) The advisory committee meets at the call of the chair or at the call of a majority of the committee members.

(c) The advisory committee meets annually and more often as required to carry out its duties under this chapter.

(d) Six members of the advisory committee constitute a quorum.

(e) Action by the committee requires a majority vote of a quorum.

Section 5. Section **58-38a-203** is enacted to read:

**58-38a-203. Duties of the committee.**

(1) The committee serves as a consultative and advisory body to the Legislature regarding:

(a) the movement of a controlled substance from one schedule to another;

(b) the removal of a controlled substance from any schedule; and

(c) the designation of a substance as a controlled substance and the placement of the substance in a designated schedule.

(2) On or before September 30 of each year, the committee shall submit to the Health and Human Services Interim Committee a written report:

(a) listing any substances recommended by the committee for scheduling, rescheduling, or deletion from the schedules by the Legislature; and

(b) stating the reasons for the recommendation.

(3) In advising the Legislature regarding the need to add, delete, or reschedule a substance, the committee shall consider:

(a) the actual or probable abuse of the substance, including:

(i) the history and current pattern of abuse both in Utah and in other states;

(ii) the scope, duration, and significance of abuse;

(iii) the degree of actual or probable detriment to public health which may result from abuse of the substance;

(iv) the probable physical and social impact of widespread abuse of the substance;

(b) the biomedical hazard of the substance, including:

(i) its pharmacology, including the effects and modifiers of the effects of the substance;

(ii) its toxicology, acute and chronic toxicity, interaction with other substances, whether controlled or not, and the degree to which it may cause psychological or physiological dependence; and

(iii) the risk to public health and the particular susceptibility of segments of the population;

(c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of a substance that is currently a controlled substance;

(d) the current state of scientific knowledge regarding the substance, including whether there is any acceptable means to safely use the substance under medical supervision;

(e) the relationship between the use of the substance and criminal activity, including whether:

(i) persons engaged in illicit trafficking of the substance are also engaged in other criminal activity;

(ii) the nature and relative profitability of manufacturing or delivering the substance encourages illicit trafficking in the substance;

(iii) the commission of other crimes is one of the recognized effects of abuse of the

126 substance:

127 (iv) addiction to the substance relates to the commission of crimes to facilitate the  
128 continued use of the substance.

129 (f) whether the substance has been scheduled by other states; and

130 (g) whether the substance has any accepted medical use in treatment in the United  
131 States.

132 (4) The committee's duties under this chapter do not include tobacco products as  
133 defined in Section 49-14-2 or alcoholic beverages as defined in Section 32A-1-105.

134 Section 6. Section **58-38a-204** is enacted to read:

135 **58-38a-204. Guidelines for scheduling drugs.**

136 (1) (a) The committee shall recommend placement of a substance in Schedule I if it  
137 finds that the substance:

138 (i) has high potential for abuse; and

139 (ii) an accepted standard has not been established for safe use in treatment for medical  
140 purposes.

141 (b) The committee may recommend placement of a substance in Schedule I under  
142 Section 58-37-4 if it finds that the substance is classified as a controlled substance in Schedule  
143 I under federal law.

144 (2) (a) The committee shall recommend placement of a substance in Schedule II if it  
145 finds that:

146 (i) the substance has high potential for abuse;

147 (ii) the substance has a currently accepted medical use in treatment in the United  
148 States, or a currently accepted medical use subject to severe restrictions; and

149 (iii) the abuse of the substance may lead to severe psychological or physiological  
150 dependence.

151 (b) The committee may recommend placement of a substance in Schedule II if it finds  
152 that the substance is classified as a controlled substance in Schedule II under federal law.

153 (3) (a) The committee shall recommend placement of a substance in Schedule III if it  
154 finds that:

155 (i) the substance has a potential for abuse that is less than the potential for substances  
156 listed in Schedules I and II;

157           (ii) the substance has a currently accepted medical use in treatment in the United  
158 States; and

159           (iii) abuse of the substance may lead to moderate or low physiological dependence or  
160 high psychological dependence.

161           (b) The committee may recommend placement of a substance in Schedule III if it finds  
162 that the substance is classified as a controlled substance in Schedule III under federal law.

163           (4) (a) The committee shall recommend placement of a substance in Schedule IV if it  
164 finds that:

165               (i) the substance has a low potential for abuse relative to substances in Schedule III;

166               (ii) the substance has currently accepted medical use in treatment in the United States;  
167 and

168               (iii) abuse of the substance may lead to limited physiological dependence or  
169 psychological dependence relative to the substances in Schedule III.

170           (b) The committee may recommend placement of a substance in Schedule IV if it finds  
171 that the substance is classified as a controlled substance in Schedule IV under federal law.

172           (5) (a) The committee shall recommend placement of a substance in Schedule V if it  
173 finds that:

174               (i) the substance has low potential for abuse relative to the controlled substances listed  
175 in Schedule IV;

176               (ii) the substance has currently accepted medical use in treatment in the United States;  
177 and

178               (iii) the substance has limited physiological dependence or psychological dependence  
179 liability relative to the controlled substances listed in Schedule IV.

180           (b) The committee may recommend placement of a substance in Schedule V under this  
181 chapter if it finds that the substance is classified as a controlled substance in Schedule V under  
182 federal law.